

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MARCEL EUGENE THOMAS,

Plaintiff

v.

PERRY RUSSELL,

Defendant

Case No. 3:20-cv-00678-MMD-CLB

**ORDER**

**I. DISCUSSION**

On December 7, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted an application to proceed *in forma pauperis*. (ECF No. 1). Plaintiff has not submitted a complaint or a fully complete application to proceed *in forma pauperis*.

Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **February 8, 2021** to submit a complaint to this Court.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e., pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e., page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

Plaintiff has not submitted an application to proceed *in forma pauperis* on this

1 Court's approved form together with a Financial Certificate and an inmate account  
2 statement for the previous six-month period. Accordingly, the Court denies Plaintiff's  
3 application to proceed *in forma pauperis* (ECF No. 1) without prejudice because the  
4 application is incomplete. The Court will grant Plaintiff a **one-time extension** to file a  
5 fully complete application to proceed *in forma pauperis* containing all three of the required  
6 documents. Plaintiff will file a fully complete application to proceed *in forma pauperis* on  
7 or before **February 8, 2021**. Absent unusual circumstances, the Court will not grant any  
8 further extensions of time.

9 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*  
10 with all three required documents on or before **February 8, 2021**, this case will be subject  
11 to dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff  
12 is able to acquire all three of the documents needed to file a fully complete application to  
13 proceed *in forma pauperis*.

14 A dismissal without prejudice means Plaintiff does not give up the right to refile the  
15 case with the Court, under a new case number, when Plaintiff has all three documents  
16 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff  
17 may choose not to file an application to proceed *in forma pauperis* and instead pay the  
18 full filing fee of \$402 on or before **February 8, 2021** to proceed with this case.

19 The Court additionally notes that Plaintiff's mail was returned electronically from  
20 Northern Nevada Correctional Center ("NNCC") at ECF No. 4. According to the Nevada  
21 Department of Corrections ("NDOC") inmate database, Plaintiff is located at Stewart  
22 Conservation Camp ("SCC") and not at the address listed with the Court. Pursuant to  
23 Nevada Local Rule of Practice IA 3-1, a "pro se party must immediately file with the court  
24 written notification of any change of mailing address, email address, telephone number,  
25 or facsimile number. The notification must include proof of service on each opposing party  
26 or the party's attorney. Failure to comply with this rule may result in the dismissal of the  
27 action, entry of default judgment, or other sanctions as deemed appropriate by the court."  
28 Nev. Loc. R. IA 3-1. The Court grants Plaintiff until on or before **February 8, 2021** to file

1 his updated address with the Court. If Plaintiff does not update the Court with his current  
2 address on or before **February 8, 2021**, this case will be subject to dismissal without  
3 prejudice. As a one-time courtesy, the Clerk of the Court will send a copy of this order to  
4 Plaintiff at both NNCC and SCC.

5 **II. CONCLUSION**

6 For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to  
7 this Court on or before **February 8, 2021**.

8 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the  
9 approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same.

10 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*  
11 (ECF No. 1) is denied without prejudice to file a new fully complete application to proceed  
12 *in forma pauperis* with all three documents.

13 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the  
14 approved form application to proceed *in forma pauperis* by an inmate, as well as the  
15 document entitled information and instructions for filing an *in forma pauperis* application.

16 IT IS FURTHER ORDERED that on or before **February 8, 2021**, Plaintiff will either  
17 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52  
18 administrative fee) or file with the Court:

19 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this  
20 Court's approved form (i.e., pages 1 through 3 of the form with the inmate's two  
21 signatures on page 3),

22 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
23 official (i.e., page 4 of this Court's approved form), and

24 (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
25 **previous six-month period.**

26 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully  
27 complete application to proceed *in forma pauperis* with all three documents or pay the full  
28 \$402 filing fee for a civil action on or before **February 8, 2021**, this case will be subject to

1 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case  
2 number, when Plaintiff is able to file a complaint and has all three documents needed to  
3 file a complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

4 IT IS FURTHER ORDERED that if Plaintiff does not update the Court with his  
5 current address on or before **February 8, 2021**, this case will be subject to dismissal  
6 without prejudice.

7 IT IS FURTHER ORDERED that as one-time courtesy, the Clerk of the Court will  
8 send a copy of this order to Plaintiff at both NNCC and SCC.

9 DATED: December 9, 2020

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11 UNITED STATES MAGISTRATE JUDGE  
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